

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,  
Plaintiff  
v.  
SHAWN L. PORTMANN,  
Defendant.

NO. CR11-5394 BHS

**SECOND PRELIMINARY ORDER OF  
FORFEITURE AS TO CERTAIN  
SUBSTITUTE PROPERTY OF  
DEFENDANT SHAWN L. PORTMANN**

The United States of America, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure, and Title 21, United States Code, Section 853(p), has moved to enter a Second Preliminary Order of Forfeiture in this case to include certain property of defendant SHAWN L. PORTMANN as substitute property, to be applied in partial satisfaction of the outstanding money judgment totaling \$10,000,000.00. In consideration of the motion and memorandum in support thereof, and the entire record in this matter, the Court finds as follows.

On January 28, 2013, the Court entered a Preliminary Order of Forfeiture wherein SHAWN L. PORTMANN forfeited \$102,000 in United States currency, and a money judgment in favor of the United States in the amount of \$10,000,000 United States funds, which represents a portion of the proceeds obtained as a result of the offenses to which Defendant pleaded guilty. The Court finds that at the time of the entry of the Preliminary

1 Order of Forfeiture, the money judgment ordered forfeited was unavailable for seizure  
2 and execution because the forfeiture constitutes a representation of gross proceeds  
3 obtained as a result of the offenses to which the Defendant pleaded guilty, which funds  
4 had already largely been spent.

5 The United States has determined that the defendant has an interest in property  
6 which was not included in the Preliminary Order of Forfeiture and which should be  
7 substituted to satisfy the money judgment, in whole or in part.

8 As a result, pursuant to Rule 32.2(e) of the Federal Rules of Criminal Procedure  
9 and Title 21, United States Code, Section 853(p), the United States is entitled to an order  
10 forfeiting other properties of the defendant as a substitute for the unavailable property  
11 ordered forfeited.

12 Accordingly, it is hereby ORDERED that all right, title and interest of defendant  
13 SHAWN L. PORTMANN in the following property is hereby forfeited to the United  
14 States:

15 The contents within the following storage lockers:

- 16 a) Linden Park Heated Storage, 2102 E. Main, Puyallup, WA 98732,  
17 Unit No. 8022; and  
18 (b) Linden Park Heated Storage, 2102 E. Main, Puyallup, WA 98732,  
19 Unit No. 8043

20 It is further Ordered that the United States Department of Treasury, Internal  
21 Revenue Service – Criminal Division (IRS-CI), and/or its agents and representatives,  
22 shall seize the property ordered forfeited hereunder pending the conclusion of any third  
23 party proceedings which may be conducted in this matter pursuant to Rule 32.2 of the  
24 Federal Rules of Criminal Procedure and Title 21, United States Code, Section 853(n).

25 The United States shall promptly initiate proceedings necessary to protect any  
26 third party interests in the substitute properties, pursuant to and in accordance with Rule  
27 32.2(e) of the Federal Rules of Criminal Procedure and Title 21, United States Code,  
28 Section 853(n), prior to requesting entry of a final order of forfeiture with respect thereto.

1 IT IS FURTHER ORDERED that pursuant to Title 21, United States Code,  
2 Section 853(n), the United States shall publish notice of the Preliminary Order of  
3 Forfeiture and of the intent of the United States to dispose of the property in accordance  
4 with law. The notice shall be posted on an official government website for at least thirty  
5 (30) days. The notice shall state that any person, other than the defendant, having or  
6 claiming a legal interest in the above-described property must file a petition with the  
7 Court within sixty (60) days of the first day of publication of notice (which is thirty (30)  
8 days of the last day of publication) on an official internet government forfeiture website,  
9 currently [www.forfeiture.gov](http://www.forfeiture.gov), or within thirty (30) days of receipt of actual notice,  
10 whichever is earlier.

11 The notice shall advise such interested person that:

- 12 1. the petition shall be for a hearing to adjudicate the validity of the  
13 petitioner's alleged interest in such property;
- 14 2. the petition shall be signed by the petitioner under penalty of perjury; and
- 15 3. the petition shall set forth the nature and extent of the petitioner's right,  
16 title or interest in the forfeited property.

17 The petition shall also set forth any additional facts supporting the petitioner's  
18 claim and the relief sought.

19 The United States shall also, to the extent possible, provide direct written notice as  
20 a substitute for published notice to any person known to have an alleged interest in the  
21 above-described property that is the subject of this Second Preliminary Order of  
22 Forfeiture.

23 Upon adjudication of any third-party claims, this Court will enter a Final Order of  
24 Forfeiture pursuant to Title 21, United States Code, Section 853, in which all such claims  
25 will be addressed.

26 IT IS FURTHER ORDERED that pursuant to Rule 32.2(b)(4), Federal Rules of  
27 Criminal Procedure, this Preliminary Order of Forfeiture shall become final as to the  
28

1 defendant. If no third party files a timely claim, this Order shall become the Final Order  
2 of Forfeiture as provided by Rule 32.2(c)(2), Federal Rules of Criminal Procedure.

3 IT IS FURTHER ORDERED that after the disposition of any motion filed under  
4 Rule 32.2(c), Federal Rules of Criminal Procedure and before a hearing on any third  
5 party petition, discovery may be conducted in accordance with the Federal Rules of Civil  
6 Procedure upon a showing that such discovery is necessary or desirable to resolve factual  
7 issues.

8 IT IS FURTHER ORDERED that the United States shall have clear title to the  
9 above-described property following the Court's disposition of all third party interests, or,  
10 if none, following the expiration of the period provided in Title 21, United States Code,  
11 Section 853(n) for the filing of third party petitions.

12 IT IS FURTHER ORDERED that the Court shall retain jurisdiction to enforce this  
13 Order, and to amend it as necessary, pursuant to Rule 32.2(e), Federal Rules of Criminal  
14 Procedure.

15 DATED this 27<sup>th</sup> day of January, 2014.

17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



BENJAMIN H. SETTLE  
United States District Judge

Presented by:

24 s/J. Tate London  
J. TATE LONDON  
25 BRIAN D. WERNER  
26 Assistant United States Attorneys  
27 United States Attorney's Office  
28